

ADMINISTRATIVE REPORT

DATE: February 22, 2024
TOPIC: #8.2 – Resolution declaring contractor default
PRESENTER: Dan Pyan – Executive Director of Finance and Operations
REFERENCE TO POLICY/STATUTE: 701 – School District Budget

A. PURPOSE OF REPORT

- a. As included in school nutrition's capital plan, new cooler/freezers were installed at East Ridge High School and Valley Crossing Elementary School.
- b. The contractor of the project was Commercial Kitchens.
- c. The School District has determined that the cooler/freezer installation does not meet project specification and requirements.
- d. School District staff and consultants have attempted to work with Commercial Kitchens to correct the cooler/freezers, however no resolution was achieved.
- e. The District put Commercial Kitchens' performance bond surety, Merchants National Bonding, Inc on notice of the problem.
- f. The School District under its agreement with Commercial Kitchens and Merchants National Bonding, Inc must declare Commercial Kitchen Services in default, terminate the contract with Commercial Kitchen Services and notify Merchants National Bonding, Inc of the termination.

B. RECOMMENDATION

- a. Approve Resolution declaring contractor default and authorize pursuit of claim.

C. CONNECTION TO STRATEGIC PRIORITY

- a. Operations, Staffing, and Finance



School Board Member _____ introduced the following Resolution and moved its adoption:

**RESOLUTION DECLARING CONTRACTOR DEFAULT AND AUTHORIZING
PURSUIT OF CLAIM**

WHEREAS, the District and Commercial Kitchen Services are parties to a contract (the “Contract”) under which Commercial Kitchen Services agreed to, among other things, install a walk-in cooler/freezer at the District’s East Ridge High School and Valley Crossing Elementary School;

WHEREAS, the installation specifications for the walk-in cooler/freezers to be installed were described in Exhibit A of the Contract,

WHEREAS, the District has determined that walk-in cooler/freezer installation performed by Commercial Kitchen Services does not meet the specifications of Exhibit A of the Contract;

WHEREAS, District staff and consultants have attempted to work with Commercial Kitchen Services to effect correction of the walk-in cooler/freezer installation, but these efforts have to date been unsuccessful;

WHEREAS, the District also put Commercial Kitchen Services’ performance bond surety, Merchants National Bonding, Inc., on notice of the problems, and notified Merchants National Bonding, Inc. and Commercial Kitchen Services that it was considering declaring a default on the Contract due to the unremedied walk-in cooler/freezer installation;

WHEREAS, in order to move forward with the effort to effect resolution of the walk-in cooler/freezer installation issues and, if necessary, pursue an action to recover damages resulting from the issues, the District, under its agreement with Commercial Kitchen Services and Merchants National Bonding, Inc., must declare a Commercial Kitchen Services in default, terminate the Contract with Commercial Kitchen Services, and notify Merchants National Bonding, Inc. of the termination;

NOW, THEREFORE, BE IT RESOLVED by the School Board of Independent School District No. 833, South Washington County Schools, as follows:

1. The School Board hereby determines and declares Commercial Kitchen Services to be in default of its contractual obligation to install a walk-in cooler/freezer at the East Ridge High School and at the Valley Crossing Elementary School that meets the requirements of its contract with the District, and all pertinent project specifications.
2. District staff and consultants are authorized and directed to pursue all avenues for recovery against Commercial Kitchen Services and Commercial Kitchen Services’ surety, Merchants National Bonding, Inc., so that the walk-in cooler/freezer installation issues are resolved and corrected.

The motion for the adoption of this Resolution was duly seconded by School Board Member _____ and upon a vote being taken, the following School Board members voted in favor of the Resolution:

And the following School Board members voted against the Resolution:

Based on the vote, this Resolution was declared duly passed and adopted.